

Agnes as her sole heir at law being entitled to the remainder in fee.

It was subsequently ascertained that the estate was capable of partition, and a final decree of partition was made on the 1st of March, 1852, ratifying and confirming the return of the commissioners and assigning to the complainants, Dalrymple and his daughter, the former for life, and the latter in fee, that portion of said estate which was described in said return as Lot No. 1.

In the decree, power was reserved to the complainants to apply to the court for a decree for the sale of this lot, and for this purpose a commission was directed to be issued to such person as they might select to take proof to establish the allegations of the bill.

The necessary proof being obtained, the court, on the 16th of March, 1852, passed a decree in the usual form, for the sale of said parcel of land, and appointing a trustee for the purpose.

A sale was accordingly made to one Theodore Hodgkin, on the 11th of May, 1852, for the sum of \$2140, a report thereof made, and a final order of ratification passed on the 19th of July following.

Hodgkin, the purchaser, having utterly failed to comply with the terms of sale, the trustee on the 2d of August, of the same year, in pursuance of the provisions of the act of 1841, ch. 216, filed his petition, praying that he might be compelled to comply, or in default thereof, that the property might be resold at his risk and expense.

Hodgkin, upon notice, having failed to comply, or show cause to the contrary, the court, on the 8th of September, 1852, passed an order for the resale of the property at his risk.

Agnes E. Dalrymple, the infant, died on the 4th of October following, intestate, and without issue, leaving her aunt, Mary E. D. Taneyhill her only heir at law, and on the 12th of the same month and year, the trustee, with the consent of Hodgkin, the first purchaser, sold the property at private sale to Erickson H. Taneyhill, the husband of Mary E. D., the aunt and heir at law of Agnes E. Dalrymple, the infant.